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8 Proposed Liaison Counsel for Movants
9 Westchester Capital Management, Inc and
10 Green & Smith Investment Management L.L.C.
11 [Additional Counsel on Signature Page]

12
13 **IN THE UNITED STATES DISTRICT COURT**
14
15 **SOUTHERN DISTRICT OF CALIFORNIA**

16 HCL PARTNERS LIMITED
17 PARTNERSHIP, On behalf of Itself and all
18 others similarly situated,

19 Plaintiff,

20 -v-

21 LEAP WIRELESS INTERNATIONAL,
22 INC., S. DOUGLAS HUTCHESON, DEAN
23 M. LUVISA, AMIN I. KHALIFA and
24 PRICEWATERHOUSECOOPERS, LLP,

25 Defendants.

26 FRANK CHAREK, Individually and on
27 behalf of all others similarly situated,

28 Plaintiff,

-v-

LEAP WIRELESS INTERNATIONAL,
INC., S. DOUGLAS HUTCHESON, MARK
H. RACHESKY, AMIN I. KHALIFA,
GLENN UMETSU, and DEAN M. LUVISA,

Defendants.

[Caption continued on next page]

Case No.: 07-cv-2245-BTM-NLS

CLASS ACTION

**DECLARATION OF ROY BEHREN IN
SUPPORT OF MOTION BY CLASS
MEMBERS WESTCHESTER CAPITAL
MANAGEMENT, INC. AND GREEN &
SMITH INVESTMENT MANAGEMENT
L.L.C.**

DATE: March 28, 2008
TIME: 11:00 a.m.
JUDGE: Hon. Barry Ted Moskowitz
CTRM: 15 (5th Floor)

Case No.: 07-cv-2256-BTM-NLS

1 DEVAY CAMPBELL, Individually and on
2 behalf of all others similarly situated,

3 Plaintiff,

4 -v-

5 LEAP WIRELESS INTERNATIONAL,
6 INC., S. DOUGLAS HUTCHESON, MARK
7 H. RACHESKY, AMIN I. KHALIFA,
GLENN UMETSU, and DEAN M. LUVISA,

8 Defendants.

Case No.: 07-cv-2297-BTM-NLS

1 1. I, Roy Behren, am Chief Compliance Officer for both Westchester Capital
2 Management Inc. and Green & Smith Investment Management L.L.C. (the "Westchester
3 Movants"). I make this declaration in further support of the motion to appoint the Westchester
4 Movants as attorney-in-fact to take all actions on behalf of The Merger Fund, The Merger Fund
5 VL, the GS Master Trust, MSS Merger Arbitrage 2 and Institutional Benchmarks Series (Master
6 Feeder) Limited, as the Lead Plaintiff in the above captioned actions.

7
8 2. As stated in my previous Certification, Westchester Capital is the Adviser to, and
9 has full and complete discretion over and controls all investments made by The Merger Fund and
10 The Merger Fund VL. Green & Smith is the Adviser to, and has full and complete discretion over
11 and controls all investments made by the GS Master Trust, MSS Merger Arbitrage 2 and
12 Institutional Benchmarks Series (Master Feeder) Limited. Both Advisers have unrestricted
13 decision-making authority with respect to the funds that they advise and manage.

14
15 3. I am the Chief Compliance Officer of Westchester Capital and Green & Smith and
16 am authorized to undertake all acts on their behalves, including the right to commence legal
17 action and the right to seek to serve as lead plaintiff in this and any other action arising under the
18 Private Securities Litigation Reform Act.

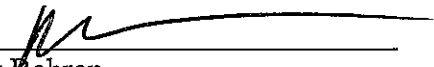
19
20 4. It is my understanding that if an investment adviser has full discretion and control,
21 as the Westchester Movants do on behalf of these funds, and is the attorney-in-fact authorized to
22 undertake all acts, as the Westchester Movants are on behalf of these funds, then that investment
23 Adviser has standing to commence legal action on its own behalf, including seeking to be
24 appointed as the lead plaintiff in this action.

25 5. As a result of the investment made in Leap common stock by the Westchester
26 Movants, the funds have the largest financial stake of any class member seeking appointment as
27
28

1 lead plaintiff in the above captioned actions and therefore the Westchester Movants as attorneys-
2 in-fact for these funds believe they should be appointed as lead plaintiff in this action.

3 I declare under penalty of perjury under the laws of the United States of America that the
4 foregoing is true and correct.

5 Dated: March 19, 2008

7 
8 Roy Behren